

TANYA M. SANERIB (OSB No. 025526)

tanya@crag.org

Crag Law Center

917 SW Oak Street, Suite 417

Portland, OR 97205

Telephone: (503) 525.2722

Fax: (503) 296.5454

Attorney for Plaintiffs

ELLEN F. ROSENBLUM

Attorney General

DARSEE STALEY (OSB No. 873511)

Darsee.Staley@doj.state.or.us

CHRISTINA L. BEATTY-WALTERS (OSB No. 981634)

Tina.BeattyWalters@doj.state.or.us

Department of Justice

1515 SW Fifth Ave, Suite 410

Portland, OR 97201

Telephone: (971) 673-1880

Fax: (971) 673-5000

Attorneys for Defendants

RONALD S. YOCKIM (OSB No. 81430)

ryockim@yockimlaw.com

DOMINIC M. CAROLLO (OSB No. 093057)

dcarollo@yockimlaw.com

Law Offices of Ronald S. Yockim

430 S.E. Main Street, P.O. Box 2456

Roseburg, OR 97470

Phone: (541) 957-5900

Fax: (541) 957-5923

JULIE WEIS (OSB No. 974320)

jweis@hk-law.com

Haglund Kelley Jones & Wilder LLP

200 S.W. Market Street, Suite 1777

Portland, OR 97201

Phone: (503) 225-0777

Fax: (503) 225-1257

Attorneys for Defendant-Intervenors

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION**

**CASCADIA WILDLANDS, et al.,**

Plaintiffs,

v.

**JOHN KITZHABER**, in his official capacity  
as Governor of Oregon and Chair of the State  
Land Board, *et al.*,

Defendants,

and

**OREGON FOREST INDUSTRIES  
COUNCIL, et al. and ASSOCIATION OF  
OREGON COUNTIES,**

Defendant- Intervenors.

Case No.: 3: 12cv00961-AA

**JOINT MOTION OF THE PARTIES FOR  
AN EXTENSION OF FACT DISCOVERY  
AND THE CASE SCHEDULE and  
ORDER**

Plaintiffs, Defendants, and Defendant-Intervenors (hereafter the Parties) respectfully request that the Court enter an order in this case extending the time for fact discovery and changing the existing case schedule because additional time is required to complete fact discovery in this matter.

1. This case was filed on May 31, 2012 and alleges that Defendants are violating the Endangered Species Act by authorizing logging practices and making forest management

decisions that “take” – harm, harass, injure, and kill – threatened seabirds called marbled murrelets under the federal Endangered Species Act, 16 U.S.C. §§ 1531, *et seq.*

2. On August 15, 2012, the Court issued a scheduling order for this matter. That order provided that: “Discovery is to be completed by 11/20/2012. Joint Alternate Dispute Resolution Report is due by 11/27/2012. Expert Witness Lists are due by 12/7/2012. Expert Discovery to be completed by 1/23/2013. Dispositive Motions are due by 2/8/2013. Pretrial Order is due by 5/17/2013. See Joint Motion [57] for additional deadlines that the Court does not track.”

3. On September 10, 2012, the Parties exchanged their first sets of requests for production, admissions, and interrogatories.

4. On October 15, 2012, the Parties exchanged their initial written responses. The timber industry Intervenor produced their first batch of responsive documents on October 15, 2012. Plaintiffs produced their first batch of responsive documents on October 31, 2012. Defendants have not produced any documents in discovery as of the date of this filing.

5. Defendants believe that a Protective Order is necessary in this case to protect certain information in some of the documents that Plaintiffs requested in their document production requests. Defendants provided a draft Order to Plaintiffs’ counsel on October 31, 2012. The Parties have been negotiating over the draft Protective Order in good faith to avoid the need to litigate over the scope and entry of this Order.

6. As a result of these circumstances, no depositions have been scheduled in this matter and the Parties have not discussed the adequacy of the initial discovery responses. Therefore, the Parties seek additional time in which to complete fact discovery.

7. The extension of the fact discovery deadline will alter the other deadlines set in the Court's August 15, 2012 Order but will not change the time set for trial, since these dates have not yet been selected.

8. Therefore, the Parties propose the following new schedule for discovery and pre-trial proceedings in this matter:

Completion of State Defendants' Document Production	March 1, 2013
Written Motions to Compel	From November 2 to April 15, 2013
Completion of Fact Discovery:	From November 20 to May 5, 2013
ADR Report Deadline	From November 27 to May 12, 2013
Disclosure of Experts and Reports	From December 7 to May 27, 2013
Rebuttal Expert disclosure:	From January 16 to June 17, 2013
Close of Expert Discovery:	From January 23 to June 24, 2013
Dispositive Motions (if filed)	From February 8 to July 8, 2013
-Response brief	From March 4 to August 8, 2013
-Reply Brief	From March 18 to August 22, 2013
Pretrial Disclosures	From April 12 to September 16, 2013
Pretrial Objections	From April 26 to October 9, 2013
Pretrial Order	From May 17 to November 8, 2013

9. Currently, fact discovery is set to close in this case on November 20, 2012.

10. For all these reasons, the Parties respectfully request that the Court either enter this new scheduling order or set aside the existing fact discovery deadline and hold a telephonic

conference as soon as possible to discuss any elements of the order that requires revision to fit the Court's calendar.

Respectfully submitted this 19th day of November, 2012,

/s/Tanya M. Sanerib  
Tanya M. Sanerib (OSB No. 025526)  
Email: tanya@crag.org  
Phone: (503) 525-2722  
Daniel R. Kruse (OSB No. 064023)  
Email: dkruse@cldc.org  
Phone: (541) 870-0605

For Plaintiffs

/s/ Julie A. Weis  
Julie A. Weis (OSB No. 974320)  
Email: jweis@hk-law.com  
Phone: (503) 225-0777

For Defendant-Intervenor

/s/Christina L. Beatty-Walters  
Christina L. Beatty-Walters (OSB NO. 981634)  
Email: tina.beattywalters@doj.state.or.us  
Darsee Staley (OSB No. 873511)  
Email: Darsee.Staley@doj.state.or.us  
Phone: (971) 673-1880

For Defendants

/s/ Dominic M. Carollo  
Dominic M. Carollo (OSB No. 093057)  
Email: dcarollo@yockimlaw.com  
Ronald S. Yockim (OSB No. 81430)  
Email: ryockim@yockimlaw.com  
Phone: (541) 957-5900

For Defendant-Intervenors

It Is So ORDERED this \_\_\_\_\_ day of November, 2012,

\_\_\_\_\_  
Honorable Judge Aiken  
United States District Court  
for the District of Oregon